

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB 1053

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Senator Howell

3. Committee: Commerce and Labor

4. Title: Establish rules for qualified education loan servicers

- 5. Summary:** This bill prohibits any person from acting as a qualified education loan servicer without first obtaining a license from the State Corporation Commission (SCC). It also establishes procedures pertaining to such licenses including the applicant's payment of nonrefundable license and investigation fees. Banks, credit unions, and public or private nonprofit institutions of higher education are exempt from the licensing provisions. The servicing of a qualified education loan encompasses receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; applying the payments of principal and interest and such other payments with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and performing other administrative services with respect to a qualified education loan.

Qualified education loan servicers are prohibited from, among other things:

- misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a qualified education loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan;
- misapplying qualified education loan payments to the outstanding balance of a qualified education loan;
- failing to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually if the qualified education loan servicer regularly reports information to such a credit bureau; and
- engaging in any other prohibited activities described in regulations.

However, all qualified education loan servicers are required to register with the Nationwide Mortgage Licensing System and Registry.

The SCC may, as often as deemed necessary, investigate a licensed qualified education loan servicer for any business practices for which a license is required. Examinations will be conducted at least once in a three-year period. In order to defray the costs associated with the examination, supervision, and regulation, every licensed qualified education loan servicer will pay an annual fee calculated in accordance with a schedule set by the SCC. The fees will be assessed on or before December 15 every year with payment being made to the State

Treasurer on or before January 15 following each assessment. The SCC will also be reimbursed for actual travel and reasonable living expenses incurred during the examination.

This bill has a delayed effective date of July 1, 2018. By November 1, 2019, the SCC must submit a report to the House and Senate Committees on Commerce and Labor, House Committee on Education, and Senate Committee on Education and Health that includes:

- the volume and severity of complaints involving qualified education loans that are investigated by the SCC;
- the number of licenses issued and the number of applications for a license denied;
- the number of licensees that filed a written report with the SCC;
- the number and nature of complaints received from qualified education loan borrowers;
- the number of investigations and examinations resulting from complaints and violations and their resolution; and
- an assessment of whether the number, severity, and nature of the borrowers' complaints and the number and severity of those determined to be valid warrants the establishment of a qualified education loan ombudsman's office.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary (see Section 8)

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	\$0	0.0	NGF
2018	\$65,100	1.0	NGF
2019	\$168,600	2.0	NGF
2020	\$246,800	3.0	NGF
2021	\$246,800	3.0	NGF
2022	\$246,800	3.0	NGF
2023	\$246,800	3.0	NGF

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	\$0	NGF
2018	\$65,100	NGF
2019	\$168,600	NGF
2020	\$246,800	NGF
2021	\$246,800	NGF
2022	\$246,800	NGF
2023	\$246,800	NGF

8. Fiscal Implications: For FY 2018, the SCC estimates one position to receive and investigate license applications (\$65,100). Having an individual in place and processing license applications from qualified education loan servicers is necessary to meet this bill's July 2018 effective date. In FY 2019, an additional individual with knowledge and expertise of the qualified education loan industry would be necessary to serve as program manager as

well as receive consumer complaints and provide assistance in examinations (\$103,500). By FY 2020, a trained entry level examiner would be required to examine qualified education loan servicer licensees (\$78,200).

The revenues generated by the SCC's charging nonrefundable license and investigation fees as well as an annual fee would be used to offset the costs associated with the operation of this program. However, until sufficient fees are collected, the SCC would have to redirect other resources to implement this program and support the positions. Assuming a favorable response from the qualified education loan servicer industry, additional positions and funding might be necessary.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission and the Commission's Bureau of Financial Institutions

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 02/13/17

c: Secretary of Education